REMARKS

Claims 3, 4, 16-21, 25, 29, 31-33 and 45-50 are pending in the application and are rejected.

Applicants amend the claims as shown above to comply with suggestions made in the Office Action. Applicants also wish to preserve their rights for appeal should an appeal become necessary by respectfully submitting that they generally disagree with statements made in the Office Action and maintain the arguments they have submitted previously. Statements made in the Office Action suggest Applicants' prior arguments may not have been understood or fully considered. A few areas of disagreement are discussed below.

Claim Amendments

Referring to pages 4 and 6 of the Office Action, the Examiner has suggested Applicants should consider amending the claims to define more clearly what is meant by "successful decoding" in claims 3 and 25, and to recite details of the decoder set forth in claim 45.

In response, Applicants amend claims 3, 25 and 45-49 and cancel claim 50 as shown above and request reconsideration. Support for the amendments to claims 3, 25 and 45-49 may be found in the specification including the text that begins on page 17.

Double Patenting

Claims 3, 4, 16-21, 25, 29, 31-33 and 45-50 are rejected under the judicial doctrine against obviousness-type double patenting as being unpatentable over claims 1-54 in U.S. patent 6,023,233 (referred to as "Craven") in view of U.S. patent 5,617,145 (referred to as "Huang").

The Office Action essentially repeats the ground of rejection that was set forth in a previous office action and responded to by Applicants. The most recent Office Action adds two paragraphs in its reasoning, presumably in reply to points raised by Applicants in their prior response; however, even with these two additional paragraphs, the most recent Office Action fails to address fully and overcome the deficiencies that are discussed in Applicants' prior response.

The Office Action indicates "US Patent 6,023,233 issued to Craven teaches all limitations of the instant application except the process of determining a minimum data rate; that Craven suggest the use of predetermined data rate; that Huang explicitly teaches the process of determining a minimum data rate; and that it would have been obvious to modify the teachings in Craven to use the minimum data rate taught by Huang in order to encode/decode data.

Applicants respectfully traverse this double-patenting rejection for each of two reasons discussed below: (1) a proper showing has not been made to support the rejection, and (2) the actual differences between claims in the present application and in Craven are greater than what is alleged.

Improper Showing

First, the Office Action does not provide an adequate showing to support the rejection. The Office Action selects disparate features from unrelated claims in Craven in an attempt to combine the features needed to render the pending claims obvious. This is not proper.

To support an obviousness-type double patenting rejection, the Office Action should make clear the "differences between the inventions defined by the conflicting claims — a claim in the patent compared to a claim in the application" (MPEP 804 part II B.1). This is to be done claim-by-claim for each claim that is rejected. Features from unrelated claims cannot be combined.

All Features Not Disclosed or Suggested

Second, as explained previously in two responses, the differences between the claims in the present application and in Craven are greater than what is alleged in the Office Action. Stated differently, the claims in Craven fail to disclose or suggest all features of the claims even when considered in view of prior art such as Huang.

Independent claims 3 and 25 in the present application each have an element that determines a particular minimum data rate for a repacketized data stream. No claim in Craven has anything that corresponds to this feature, and Huang does not disclose this feature as admitted on page 11 of the Office Action ("Naimpally in view of Huang does not explicitly teach repacketized data").

Independent claim 45 is now directed toward a system for decoding. The only claims in Craven that are directed toward decoding are claims 29-31. Claim 45 in the present application recites a feed buffer that is coupled ahead of a FIFO buffer. Additional features are also added by amendment. Nothing in claims 29-31 of Craven have anything that suggests this feed buffer or the features added by amendment, and Huang does not disclose the feed buffer as admitted on page 14 of the Office Action ("Naimpally in view of Huang does not explicitly teach a feed buffer").

Claim Rejections Under 35 U.S.C. § 103

Claims 3, 25 and dependents

Claims 3, 4, 16-18, 21, 25, 29, 31, 32 and 50 are rejected under 35 U.S.C. § 103 as being unpatentable over U.S. patent 5,619,337 (referred to as "Naimpally") in view of Huang and further in view of U.S. patent 5,377,051 (referred to as "Lane").

The Office Action essentially repeats the grounds of rejections that were set forth in a previous office action and responded to by Applicants. The most recent Office Action does acknowledge arguments set forth in Applicants' response but the discussion in the Office Action suggests some significant aspects of those arguments were either overlooked or misunderstood.

Applicants traverse the rejection of the claims for two reasons: (1) the alleged motivations to combine references would not have existed, and (2) the combined references do not teach all features of the claims. In addition, Applicants amend claims 3 and 25 as mentioned above in response to a suggestion in the Office Action found on page 4.

Applicants refer to their response submitted on August 30, 2006 and respectfully submit that the reasons and arguments set forth in that response are valid and not yet overcome by the reasons discussed in the most recent Office Action. Applicants also wish to give comments on a few points raised in the most recent Office Action.

Motivation to Combine References

On page 2 the Office Action states "known subject matter in the art does not necessarily mean that there is no motivation to combine subject matter." Although this statement may be true in the abstract, it overlooks what is present in this case. As set forth here and in a prior response, Applicants refer to subject matter known in the art as well as disclosed in the references themselves to explain why alleged reasons to combine would not have existed.

The Office Action sets forth two motivations to combine the primary reference (Naimpally) with two secondary references (Huang and Lane). We discuss each alleged motivation in turn.

The alleged motivation to combine Naimpally and Huang is to enable the systems disclosed in Naimpally to be able to encode/decode data at different data rates (see pp. 10-11 of the most recent Office Action). This motivation would not have existed. The systems disclosed in Naimpally were already capable of decoding data at different data rates. If this was not true, the encoders disclosed in Naimpally would have had no usefulness. The skilled person would not have had the alleged motivation to look beyond what is disclosed in Naimpally because nothing was lacking to accomplish what the Office Action alleges might have been the need to combine.

The alleged motivation to combine Lane with Naimpally and Huang is "for a decoder to recognize a stream of data packets." This allegation appears to be based on a misunderstanding of what is taught in Lane as explained in Applicants' prior response. It also overlooks the fact that a decoder as taught in Naimpally must have already been capable of recognizing a stream of packets, otherwise the encoders disclosed in Naimpally would have had no utility. The skilled person would not have had the alleged motivation to look beyond what is disclosed in Naimpally because nothing was lacking to accomplish what the Office Action alleges might have been the need to combine.

Even if there would have been a motivation to combine Naimpally, Huang and Lane, the combination fails to disclose or suggest all features in the original claims and the amended claims.

The Office Action acknowledges Naimpally does not disclose or suggest the recited features pertaining to the minimum date rate for a repacketized data stream but it does allege it is taught by a combination of (1) Huang teaching a determination of a minimum rate (col. 6 ln. 59 to col. 7 ln. 45) and (2) Lane teaching repacketized data (col. 50 ln. 41-48).

Applicants respectfully disagree for each of the following reasons.

First, contrary to what is asserted in the Office Action, the cited text in Huang does not teach determining a minimum bit rate of any sort. Instead, the text describes specific calculations that may be used to determine the bit allocation for a particular picture so that a FIFO buffer does not overflow or underflow and also describes how this bit allocation may be used to select the encoding mode for the picture. The only rate that is mentioned is a "maximal audio bit rate," which is not a minimum rate of any type including the specific minimum rate that is claimed. The cited text does mention the minimum bits needed to encode I and P picture frames, but this is not a minimum rate.

Second, although Lane does mention repacketizing data, merely repacketizing data is not what is claimed. The cited text in Lane is silent with regard to data rates and does not teach anything about how to repacketized a stream of packets according to a specific data rate including the particular rate that is claimed.

Third, even if these references did teach what is alleged, this would not be sufficient to teach what is claimed. A disclosures of some arbitrary minimum rate and the disclosure of repacketizing data in Lane do not teach or suggest what is claimed, nor would it enable a person of ordinary skill to determine the minimum rate to which a packetized stream could be repacketized for decoding by a decoder having a given FIFO buffer size without FIFO buffer overfill.

Furthermore, none of these references teaches or suggests the feature added by amendment, which is "manipulating timing boundaries between packets in a model of a repacketised stream" to determine the claimed data rate.

Claims 4, 16-18, 21, 29, 31, 32 and 50 are dependent on one of the independent claims discussed above and add limitations that are not disclosed or suggested by the cited references. Some examples are discussed here.

With regard to claim 4 that recites features of lossless compression, the text in Naimpally that is relied on to reject this claim discloses nothing about lossless compression.

With regard to claims 16 and 19 that recites a mastering system, the figures in Naimpally that are relied on to reject these claims illustrate nothing about mastering systems.

With regard to claims 17-18 that comprise a means for repacketizing data, the text in Huang that is relied on to reject these claims does not disclose anything about data repacketization. This is admitted in the Office Action on page 11 ("Naimpally in view of Huang does not explicitly teach repacketized data").

With regard to claim 21 that recites Meridian Lossless Packing (MLP), the text in Naimpally that is relied on to reject this claim discloses nothing about MLP.

With regard to claims 31-32 that comprise processing control data to determine an adequate bandwidth for transmission, the text in Huang that is relied on to reject these claims discloses nothing about such processing.

Claim 45 and dependents

Claims 45-49 are rejected under 35 U.S.C. § 103 as being unpatentable over Naimpally in view of Huang and further in view of U.S. patent 5,675,383 (referred to as "Yagasaki").

The Office Action repeats the grounds of rejections that were set forth in a previous office action and responded to by Applicants. The most recent Office Action acknowledges arguments set forth in Applicants' response but apparently significant aspects of those arguments were overlooked or misunderstood.

In view of the amendments to claims 45-49 shown above, however, arguments put forth by Applicants as well as the Examiner regarding claim 45 now appear to be moot. Amended claim 45 is directed toward a system for decoding comprising a feature that pertains to manipulating timing boundaries between packets in a stream of packets. None of the three references that are relied on to reject the claims disclose or suggest this feature.

Claims 46-49 are dependent on independent claim 45 discussed above and add limitations that are not disclosed or suggested by the cited references.

With regard to claim 46 that recites features related to how the feed buffer is used relative to packet time stamps, the text in Naimpally that is relied on to reject this claim does not disclose this feature. This is also tacitly admitted in the Office Action on page 13 because Naimpally does not teach the claimed feed buffer ("Naimpally does not explicitly teach a buffer that receives the stream of packets to mitigate any interruption in the stream of packets").

With regard to claim 47 that recites losslessly compressed data, the text in Naimpally that is relied on to reject this claim discloses nothing about lossless compression.

With regard to claims 48-49 that recite features pertaining to Meridian Lossless Packing (MLP), the text in Naimpally that is relied on to reject these claims discloses nothing about MLP.

CONCLUSION

Applicants amend the claims as shown above and request reconsideration in view of the preceding discussion.

Respectfully submitted,

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